

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 813

Introduced by Assembly Member Baca

February 18, 2005

~~An act to amend Section 123620 of the Health and Safety Code, relating to fetal ultrasound.~~ *An act to amend Section 2313 of, and to add Sections 2190.6 and 2249.5 to, the Business and Professions Code, and to add Section 138.7 to the Health and Safety Code, relating to health.*

LEGISLATIVE COUNSEL'S DIGEST

AB 813, as amended, Baca. ~~Fetal ultrasound—Women's heart health.~~

Existing law establishes the Office of Women's Health in the State Department of Health Services, and requires the office, in consultation with the interagency women's health task force established under existing law, to develop a coordinated state strategy for addressing the health-related needs of women. Existing law requires the department to place a priority on providing information to consumers, patients, and health care providers regarding women's gynecological cancers. Under existing law, this information may include, but is not limited to, educational and informational materials, and public service announcements and advertisements. Existing law provides that the department's duties in this regard are to be performed contingent upon the department receiving funds appropriated for this purpose.

This bill would give the department similar authority and would impose similar requirements regarding the provision of information regarding heart health risks for women.

Existing law, the Medical Practice Act, provides for the regulation of physicians and surgeons by the Medical Board of California. Under that act, the board's Division of Licensing is required to adopt and administer standards for the continuing education of physicians and surgeons, and the board's Division of Medical Quality is required to take disciplinary action against those who are charged with committing unprofessional conduct and to report annually to the Legislature regarding those actions.

This bill would require the Division of Medical Quality to develop standards before June 1, 2007, to assure the competent review in cases concerning the treatment of female patients with heart disease, and to include in its annual report to the Legislature a description of actions relating to that practice. The bill would also require physicians and surgeons to complete a mandatory continuing education course in the subject of heart health risks for women by December 31, 2011, except that it would not apply to physicians practicing in pathology or radiology specialty areas. The bill would authorize the board to adopt regulations exempting physicians who do not engage in direct patient care, do not provide patient consultations or do not reside in California.

~~Under existing law, the State Department of Health Services is required to maintain a program of maternal and child health, which is administered by the department's Maternal and Child Health Branch. The existing maternal and child health program includes, among other subjects, pregnancy testing, perinatal health care, and nutrition. Existing law requires a person or facility that offers fetal ultrasound, or a similar procedure, for keepsake or entertainment purposes, to make a written disclosure to a client prior to performing the procedure, that the federal Food and Drug Administration does not approve the use of ultrasound equipment for these purposes.~~

~~This bill would instead require that fetal ultrasound be performed only for a medical purpose, in a medical setting, by a sonographer or other appropriately qualified practitioner. The bill would prohibit the offering or performance of fetal ultrasound or a similar procedure for keepsake or entertainment purposes.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 123620 of the Health and Safety Code~~
2 ~~is amended to read:~~

3 ~~SECTION 1. Section 2190.6 is added to the Business and~~
4 ~~Professions Code, to read:~~

5 ~~2190.6. (a) All physicians and surgeons shall complete a~~
6 ~~mandatory continuing education course in the subject of heart~~
7 ~~health risks for women. For the purposes of this section, this~~
8 ~~course shall be a one-time requirement of 6 credit hours within~~
9 ~~the required minimum established by board regulation, to be~~
10 ~~completed by December 31, 2011. All physicians and surgeons~~
11 ~~licensed on and after January 1, 2006, shall complete this~~
12 ~~requirement within four years of their initial license or by their~~
13 ~~second renewal date, whichever occurs first. The board may~~
14 ~~verify completion of this requirement on the renewal application~~
15 ~~form.~~

16 ~~(b) By regulatory action, the board may exempt physicians~~
17 ~~and surgeons by practice status category from the requirement in~~
18 ~~subdivision (a) if the physician and surgeon does not engage in~~
19 ~~direct patient care, does not provide patient consultations, or~~
20 ~~does not reside in the State of California.~~

21 ~~(c) This section shall not apply to physicians and surgeons~~
22 ~~practicing in pathology or radiology specialty areas.~~

23 ~~SEC. 2. Section 2249.5 is added to the Business and~~
24 ~~Professions Code, to read:~~

25 ~~2249.5. The Division of Medical Quality shall develop~~
26 ~~standards before June 1, 2007, to assure the competent review in~~
27 ~~cases concerning the treatment of female patients with heart~~
28 ~~disease. The division may consult with entities such as the~~
29 ~~American Heart Association, and any other medical entity~~
30 ~~specializing in women's health issues to develop the standards,~~
31 ~~and shall employ, to the extent that they are applicable, current~~
32 ~~authoritative clinical practice guidelines.~~

33 ~~SEC. 3. Section 2313 of the Business and Professions Code is~~
34 ~~amended to read:~~

35 ~~2313. The Division of Medical Quality shall report annually~~
36 ~~to the Legislature, no later than October 1 of each year, the~~
37 ~~following information:~~

1 (a) The total number of temporary restraining orders or interim
2 suspension orders sought by the board or the division to enjoin
3 licensees pursuant to Sections 125.7, 125.8 and 2311, the
4 circumstances in each case that prompted the board or division to
5 seek that injunctive relief, and whether a restraining order or
6 interim suspension order was actually issued.

7 (b) The total number and types of actions for unprofessional
8 conduct taken by the board or a division against licensees, the
9 number and types of actions taken against licensees for
10 unprofessional conduct related to prescribing drugs, narcotics, or
11 other controlled substances, including those related to the
12 undertreatment or undermedication of pain.

13 (c) Information relative to the performance of the division,
14 including the following: number of consumer calls received;
15 number of consumer calls or letters designated as
16 discipline-related complaints; number of calls resulting in
17 complaint forms being sent to complainants and number of forms
18 returned; number of Section 805 reports by type; number of
19 Section 801 and Section 803 reports; coroner reports received;
20 number of convictions reported to the division; number of
21 criminal filings reported to the division; number of complaints
22 and referrals closed, referred out, or resolved without discipline,
23 respectively, prior to accusation; number of accusations filed and
24 final disposition of accusations through the division and court
25 review, respectively; final physician discipline by category;
26 number of citations issued with fines and without fines, and
27 number of public reprimands issued; number of cases in process
28 more than six months from receipt by the division of information
29 concerning the relevant acts to the filing of an accusation;
30 average and median time in processing complaints from original
31 receipt of complaint by the division for all cases at each stage of
32 discipline and court review, respectively; number of persons in
33 diversion, and number successfully completing diversion
34 programs and failing to do so, respectively; probation violation
35 reports and probation revocation filings and dispositions; number
36 of petitions for reinstatement and their dispositions; and
37 caseloads of investigators for original cases and for probation
38 cases, respectively.

39 “Action,” for purposes of this section, includes proceedings
40 brought by, or on behalf of, the division against licensees for

unprofessional conduct which have not been finally adjudicated, as well as disciplinary actions taken against licensees.

(d) The total number of reports received pursuant to Section 805 by the type of peer review body reporting and, where applicable, the type of health care facility involved and the total number and type of administrative or disciplinary actions taken by the Medical Board of California with respect to the reports.

(e) The number of malpractice settlements in excess of thirty thousand dollars (\$30,000) reported pursuant to Section 801. This information shall be grouped by specialty practice and shall include the total number of physicians and surgeons practicing in each specialty. For the purpose of this subdivision, "specialty" includes all specialties and subspecialties considered in determining the risk categories described in Section 803.1.

(f) *The total number and types of actions for unprofessional conduct taken by the board or a division against licensees, the number and types of actions taken against licensees for unprofessional conduct related to the failure to provide adequate information or treatment for heart disease in female patients.*

SEC. 4. Section 138.7 is added to the Health and Safety Code, to read:

138.7. (a) *The State Department of Health Services shall place priority on providing information to consumers, patients, and health care providers regarding women's heart health risks, including, signs and symptoms, risk factors, the benefits of early detection through appropriate diagnostic testing, and treatment options.*

(b) *The information may include, but is not limited to, the following elements:*

(1) *Educational and informational materials in print, audio, video, electronic, or other media.*

(2) *Public service announcements and advertisements.*

(c) (1) *The department may produce or contract with others to develop the materials described in this section as the director deems appropriate, or may survey available publications from the American Heart Association and other appropriate resources, and may collect and formulate a distribution plan and disseminate these publications according to the plan. These materials may be made available to the public free of charge and may include distribution through the Medical Board of*

1 California, as well as through other sources according to the
2 distribution plan.

3 (2) The department may require, as it deems appropriate,
4 health care providers to make these materials available to
5 patients.

6 (d) In exercising the powers under this section, the office shall
7 consult with appropriate health care professionals and
8 providers, consumers, and patients, or organizations
9 representing them.

10 (e) The department may appoint a Women's Heart Disease
11 Information Advisory Council, which may include representation
12 from health care professionals and providers, consumers,
13 patients, and other appropriate interests. Members of the council
14 shall receive no compensation for their services, but shall be
15 allowed their actual and necessary expenses incurred in the
16 performance of their duties.

17 (f) The department's duties pursuant to this section are
18 contingent upon the department receiving funds appropriated for
19 this purpose.

20 (g) The department may adopt any regulations necessary and
21 appropriate for the implementation of this section.

22 ~~123620. Fetal ultrasound shall only be performed for a~~
23 ~~medical purpose, in a medical setting, by a sonographer or other~~
24 ~~appropriately qualified practitioner. A person or facility shall not~~
25 ~~offer or perform fetal ultrasound, or a similar procedure, for~~
26 ~~keepsake or entertainment purposes.~~